

**IN THE UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF ILLINOIS
EAST ST LOUIS DIVISION**

IN THE MATTER OF

GARY LEE DALE DAVIS
LORI MELISA DAVIS,

DEBTORS

IN PROCEEDINGS
UNDER CHAPTER 7

NO. 09-31642
JUDGE: Meyers,

MOTION FOR RELIEF FROM THE AUTOMATIC STAY AND FOR ABANDONMENT

NOW COMES the Movant, BAC HOME LOANS SERVICING, LP FKA COUNTRYWIDE HOME LOANS SERVICING LP, by and through its attorneys, Fisher and Shapiro, LLC, and moves this Court for the entry of an order modifying the automatic stay, pursuant to 11 USC § 362(d) and for abandonment, and in support thereof states as follows:

1. That the Debtors filed a Petition for relief under Chapter 7 of the U.S. Bankruptcy Code on June 25, 2009.
2. That the Movant is a Creditor of the Debtors, pursuant to a note secured by a mortgage on the real property commonly known as: 113 Heritage Trail, Moro, IL 62067.
3. That the Debtors are in default under the terms of said note and mortgage for failure to make the installment payment due May 1, 2009, in the amount of \$1,144.97 and each month thereafter. That default does not include attorneys' fees, costs of collection and other advances and it does not constitute reinstatement.
4. That the indebtedness due Movant as of July 28, 2009, is in excess of \$238,000.00. Said indebtedness is currently due Movant after applying all offsets and credits due Debtors.
5. That the Debtors' schedule suggests that the fair market value of said property is approximately \$255,445.00 and, upon information and belief, the property is subject to a junior lien in excess of \$53,000.00.

6. That the Movant lacks adequate protection in that there is little or no equity in the premises and that the Debtors are not making payments to the Movant as provided by the mortgage and note.

7. That the subject property is not necessary for an effective reorganization and the Movant is entitled to relief pursuant to 11 USC § 362(d).

8. That the Movant wishes to be reimbursed for the costs and attorneys' fees of filing this motion.

9. That, for the reasons set forth above, it would be inequitable to delay the enforcement of any order modifying the automatic stay with respect to the Movant.

WHEREFORE, BAC HOME LOANS SERVICING, LP FKA COUNTRYWIDE HOME LOANS SERVICING LP prays that this Court enter an order modifying the automatic stay to allow said creditor to foreclose the mortgage on the property known as:113 Heritage Trail, Moro, IL 62067; and that the property be deemed abandoned by the Trustee of the Debtor's estate, and that Federal Bankruptcy Rule 4001(a)(3) be waived.

IN ADDITION, Movant further seeks relief in order to, at its option, offer, provide and enter into any potential forbearance agreement, loan modification, refinance agreement or other loan workout/loss mitigation agreement. The Movant may contact the Debtor via telephone or written correspondence to offer such an agreement.

Any such agreement shall be non-recourse unless included in a reaffirmation agreement.

Respectfully submitted,

/s/ Josephine J. Miceli
Attorney for BAC HOME LOANS SERVICING, LP
FKA COUNTRYWIDE HOME LOANS SERVICING
LP

AFFIDAVIT OF SERVICE

The undersigned hereby certifies that he/she caused a true and correct copy of the above and foregoing document to be sent to the Debtors at the address listed below. Said copy was placed in an envelope addressed as listed below and placed in the U.S. Mail on July 28, 2009, with first class postage prepaid. All other parties entitled to notice received such notice electronically, through the office of the Clerk of the Court.

Respectfully Submitted,

/s/ Josephine J. Miceli
Josephine J. Miceli

Donald M. Samson, 226 W. Main St., Suite 102, Belleville, IL 62220
William A. Mueller, Mueller Associates, 5312 W. Main, Belleville, IL 62226
Gary Lee Dale Davis, 113 Heritage Trail, Moro, IL 62067
Lori Melisa Davis, 113 Heritage Trail, Moro, IL 62067
U.S. Trustee, 401 Main Street, Suite 1100, Peoria, IL 61602

Richard B. Aronow ARDC# 03123969
Josephine J. Miceli ARDC# 06243494
Fisher and Shapiro, LLC
4201 Lake Cook Rd
Northbrook, IL 60062-1060
(847)291-1717
Attorneys for Movant
09-024823

**THIS IS AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION OBTAINED
WILL BE USED FOR THAT PURPOSE**

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EXHIBIT SUMMARY AND CERTIFICATE OF SERVICE

The following exhibit in reference to the Motion for Relief from the Automatic Stay of BAC HOME LOANS SERVICING, LP FKA COUNTRYWIDE HOME LOANS SERVICING LP is available upon request. Movant will bring exhibit to any scheduled Court hearing on this matter.

1. Mortgage

Respectfully Submitted,

/s/ Josephine J. Miceli

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